Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Redevelopment of Spectrum to	)	
Encourage Innovation in the	)	ET Docket No. 92-9
Use of New Telecommunications	)	
Technologies	)	

To: The Commission

PETITION FOR ISSUANCE OF FURTHER NOTICE OF PROPOSED RULEMAKING

Jeffrey L. Sheldon
Sean A. Stokes

UTILITIES TELECOMMUNICATIONS COUNCIL
1140 Connecticut Avenue, N.W.
Suite 1140
Washington, D.C. 20036
(202) 872-0030

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Summary

The Commission's NPRM in ET Docket 92-9 has a number of procedural and substantive deficiencies that have to be remedied prior to a satisfactory and fair resolution of the proceeding. The majority of the NPRM lacks any degree of specificity and consequently offers little guidance as to what exactly the Commission is proposing. The NPRM also suggests, but does not directly raise, a large number of technical, operational, and procedural issues that are beyond the immediate scope of the spectrum reserve proceeding, and yet their resolution is critical to the viability of creating a spectrum reserve and fairly accommodating existing and future microwave systems. Moreover, the NPRM fails to provide proper notice of rule changes that the Commission would have to adopt in order to carry out its proposals.

Possibly the most egregious defect in the NPRM is that it does not give interested parties an adequate opportunity to discuss the merits of the underlying choice of the 2 GHz band as the "home" for the spectrum reserve. Instead, the NPRM states rather unequivocally the Commission's decision that the 2 GHz band will be the spectrum reserve and merely requests comment on how best to facilitate the migration of the existing microwave users to other bands.

In order to make a reasoned decision, based upon an adequate record, the Commission must invite public comment on the choice of band to be used for the spectrum reserve; specifically, the 2.50-2.69 GHz and the 1.99-2.11 GHz bands should be considered as alternatives to 2 GHz private and common carrier microwave bands. The FCC should also propose specific technical and operational rules concerning the securing and use of replacement spectrum by displaced users of the band ultimately selected as the spectrum reserve. Finally, the Commission should clarify its policy regarding the licensing status of expansions and/or modifications to existing facilities pending the outcome of ET Docket No. 92-9.

If the Commission truly desires to make spectrum available for the introduction of emerging technologies, it will have to remedy these many procedural defects in the NPRM. The Commission can either handle these defects on a protracted piecemeal basis that will lead to delay upon delay, or the Commission can issue a further notice of proposed rulemaking and collectively resolve these issues.

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Pursuant to Section 1.421 of the Commission's Rules, the Utilities Telecommunications Council (UTC) hereby submits this Petition for issuance of a Further Notice of Proposed Rule Making in the above-captioned proceeding, in order to correct a number of procedural and substantive deficiencies in the original Notice of Proposed Rulemaking (NPRM) in this docket.

I. Introduction

UTC is the national representative on communications matters for the nation's electric, gas, water, and steam utilities. Approximately 2,000 utilities are members of UTC, ranging in size from large combination electric-gas-water utilities serving millions of customers to small, rural electric cooperatives and water districts serving only a few thousand customers. All utilities depend upon reliable and secure communications

facilities in carrying out their public service obligations.

Many utilities operate extensive private microwave systems to meet these communications requirements. Utilities rely heavily on private microwave facilities operating in the 1.85-1.99, 2.13-2.15, and 2.18-2.20 GHz (2 GHz) bands, and would be severely hampered in their ability to provide vital public services if they were forced to vacate these bands. Moreover, it is incumbent upon the FCC to undertake a thorough cost-benefit analysis prior to taking any reallocation actions that would impinge upon the ability of utilities, public safety agencies and core industries to provide essential services to the public. A necessary element of such an analysis is consideration of alternative bands as possible "homes" for the introduction of new technologies.

II. Background

The Commission initiated this proceeding on January 16, 1992, to develop a "spectrum reserve" for emerging technologies with the adoption of the NPRM in ET Docket No. 92-9, FCC 92-20. Virtually since its adoption, the proposals contained in the NPRM have been the source of widespread confusion, and have generated a number of formal requests for clarification and reconsideration.

On February 27, 1992, UTC filed a letter with the Private Radio Bureau (PRB) requesting clarification of the PRB's licensing policies with respect to 2 GHz private microwave applications received after January 16, 1992, in light of the Commission's announcement that as of the adoption of the NPRM in ET Docket No. 92-9 all applications for new 2 GHz facilities would only be granted on a secondary basis pending the outcome of the proceeding.

On March 16, 1992, UTC, the American Petroleum Institute (API), the Association of American Railroads (AAR), and the Large Public Power Council (LPPC), filed a "Motion for Extension of Time" requesting additional time for filing comments and reply comments in response to the Commission's NPRM. The extension was requested so as to allow for a comprehensive and thorough examination of the complex issues raised by the NPRM.[1/]

On March 20, 1992, AAR filed a "Petition for Clarification," and Century Telephone filed a "Petition for Reconsideration," both requesting that the Commission clarify/reconsider its NPRM proposal regarding the secondary licensing status of new 2 GHz facilities.

[1/] On April 1, 1992, the Office of Engineering and Technology released an Order extending the time for filing comments and reply comments in ET Docket No. 92-9 to June 5, 1992, and July 6, 1992, respectively.

On March 31, 1992, UTC filed a "Petition for Rulemaking" addressing the steps which the FCC should have taken before (or when) it issued the NPRM in ET Docket No. 92-9, to make sure that there would, in fact, be appropriate and adequate replacement spectrum with equivalent reliability to the 2 GHz band in place, for use by displaced users. Specifically, UTC requested that the FCC amend Parts 2, 21 and 94 of the Commission's Rules to provide for use of frequencies in the 1.71-1.85, 3.7-4.2, 5.925-6.425, and 10.7-11.7 GHz bands by private microwave systems licensed under Part 94 of the Commission's Rules.[2/]

On April 10, 1992, AAR, API and LPPC, filed a "Petition to Suspend Proceeding" asking that the Commission suspend procedural dates and hold ET Docket No. 92-9 in abeyance until the FCC has requested the National Telecommunications and Information Administration (NTIA) to authorize shared use of the 1.71-1.85 band, and the Commission's Office of Engineering and Technology (OET) has conducted a study of the use of the 1.71-1.85 band as a possible home for emerging technologies and/or replacement microwave spectrum for displaced 2 GHz users.

In anticipation of filing comments in ET Docket No. 92-9, UTC has been engaged in a thorough analysis and review of the NPRM and the OET technical study on which the Commission's

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[2/] UTC's Petition was placed on Public Notice May 1, 1992 (RM-7981).

proposals are based.[3/] However, in attempting to prepare comments it has become increasingly apparent that the NPRM is more in the nature of a "Notice of Inquiry" than an actual rulemaking proceeding. The majority of the NPRM lacks any degree of specificity and consequently offers little guidance as to what exactly the Commission is proposing.

The NPRM also suggests, but does not directly raise, a large number of technical, operational, and procedural issues that are beyond the immediate scope of the spectrum reserve proceeding, and yet their resolution is critical to the viability of creating a spectrum reserve and fairly accommodating existing and future microwave systems. Moreover, the NPRM fails to provide proper notice of rule changes that the Commission would have to adopt in order to carry out its proposals (e.g., the NPRM does not contain any proposed rules).

Possibly the most egregious defect in the NPRM is that it does not give interested parties an adequate opportunity to discuss the merits of the underlying choice of the 2 GHz band as the "home" for the spectrum reserve. Instead, the NPRM states rather unequivocally the Commission's decision that the 2 GHz band will be the spectrum reserve and merely requests comment on

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[3/] See "Creating New Technology Bands for Emerging Telecommunications Technology," FCC/OET TS91-1 (January, 1992).

how best to facilitate the migration of the existing microwave users to other bands.

If the Commission truly desires to make spectrum available for the introduction of emerging technologies, it will have to remedy the many procedural defects in the NPRM. The Commission can either handle these defects on a protracted piecemeal basis that will lead to delay upon delay, or the Commission can issue a further notice of proposed rulemaking and collectively resolve these issues.

III. Examples of Deficiencies in the NPRM

A. Choice of Bands

A fundamental deficiency in the spectrum reserve proceeding is that virtually all of the Commission's proposals contained in the NPRM are based on a wholesale adoption of the OET study's recommendation that the spectrum reserve be located in the 2 GHz band,[4/] and yet the NPRM does not invite comment on the choice of this band or alternative bands.[5/] The OET study is merely an internal staff report prepared at the request of the Chairman of the Commission. For the Commission to adopt its recommendations

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[4/] NPRM, at para. 19.

[5/] While footnote 10 of the NPRM does request comment on the OET study, it does not specifically request comment on the choice of the band.

as to the most appropriate location for the spectrum reserve without inviting public comment on this decision would be a violation of the Commission's own rules and the Administrative Procedure Act.

Moreover, even if interested parties, such as UTC, file comments and persuasively argue that another band would be better suited for the spectrum reserve, the FCC could not adopt rules designating another band as the spectrum reserve within the context of the current NPRM. A further notice of proposed rulemaking would be required in order to give interested parties adequate notice and opportunity to comment on the new choice for the spectrum reserve. An agency's notice must provide sufficient detail and rationale for the rule to permit interested parties to comment meaningfully. Fertilizer Institute v. EPA, 935 F.2d 1303, 1311 (D.C. Cir. 1991) citing Florida Power & Light Co. v. US, 846 F.2d 765 (D.C. Cir. 1988), cert. denied 490 U.S. 1045 (1989). A final rule will be deemed to be the logical outgrowth of a proposed rule if a new round of comments would not provide commenters with their first occasion to offer new and different criticisms which the agency might find convincing. Id. Further, while UTC and others might propose alternate bands for the spectrum reserve, the Commission could not bootstrap notice from any comments it receives so as to reallocate a different band as the spectrum reserve. See American Federation of Labor v. Donovan, 757 F.2d 330, 338 (D.C. Cir. 1985). Nor could the

Commission rely on reply comments in response to alternate band suggestions, to justify the adoption of rules designating another band as the spectrum reserve.

Accordingly, the Commission should adopt a further notice of proposed rulemaking in ET Docket No. 92-9 in order to solicit comments on the choice of the 2 GHz band as the spectrum reserve and, to invite recommendations for alternatives to the 2 GHz band as the "home" for the spectrum reserve. To not invite public comment on these issues is to deny the possibility that the Commission could be persuaded to select another band as the spectrum reserve, which would be tantamount to an admission by the Commission that it has prejudged the issue and abused the rulemaking process.

1. 2.50 - 2.69 GHz Band

An alternative to the use of the 2 GHz band as the spectrum reserve that the NPRM and the OET study did not adequately address is the 2.50-2.69 GHz (2.5 GHz) band. The 2.5 GHz band is used for Multichannel Multipoint Distribution Service (MMDS), Instructional Television Fixed Service (ITFS) and Operational Fixed Microwave Service (OFS).

In carrying out its analysis, OET was given five limiting factors that the frequency band must meet in order to be

considered as a candidate for the spectrum reserve. If the band met all of the initial selection criteria, OET was to conduct a cost/benefit feasibility study to determine what band(s) should be recommended as the spectrum reserve.[6/]

The first factor considered was whether the spectrum chosen is in a range for which state-of-the-art technology for compact, light-weight, portable equipment is readily available. The study therefore limited its analysis to consideration of frequencies below 3 GHz. By definition, the 2.5 GHz band clearly satisfies this requirement.

The second factor considered was amount of spectrum: there must be enough spectrum available to allow substantial development and economies of scale. The 2.5 GHz band has 190 MHz of spectrum; only 30 MHz less than the 2 GHz band.

The third criterion was that the spectrum must come entirely from spectrum regulated by the FCC, to avoid the need for coordination with the Federal government. The 2.5 GHz band is entirely under the jurisdiction of the Commission.

The fourth criterion was that the spectrum be compatible with similar international developments and allocations for mobile technologies. The 2.5 GHz band is available for mobile

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[6/]OET Study, p. 5.

operations in Region 2 pursuant to the International Table of Frequency Allocations.[7/]

The fifth and final factor considered was the feasibility of relocation. The existing licensees in the target spectrum must be relocatable to alternative media or other spectrum with a minimum of cost and disruption of service. It was apparently this factor that caused OET to eliminate the 2.5 GHz band as a possible home for the spectrum reserve. OET rejected the 2.5 GHz band for further analysis because it found that there are no other frequency allocations currently available to which the existing MMDS and ITFS operations could be relocated.[8/]

OET's analysis on this point is flawed. While it is true that replacement spectrum is not currently allocated to the wireless cable services, this is not the factor that was to guide OET at this stage of the analysis. OET was simply to consider whether existing licensees of the target spectrum could be relocated to alternative media or other spectrum with a minimum of cost and disruption of service, irrespective of the present allocation schemes. The cost-benefit analysis of actually relocating these systems, and any possible reallocations or rule changes that would be necessary, would then be undertaken at the

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[7/] 47 C.F.R. § 2.106.

[8/] OET Study at p. 6.

next stage of study, presumably with an opportunity for public participation.

The fact is that there are other media and spectrum with compatible operational and technical characteristics to which the various wireless cable services could be relocated. For example, the ITFS and MMDS licensees that would have to be relocated, and new wireless cable systems, could operate in portions of the 3.7-4.2 (4 GHz), 5.925-6.425 (6 GHz), 10.7-11.7 (11 GHz), 11.7-12.2 (11.7 GHz), 12.2-12.7 (12 GHz) 12.7-13.25 (13 GHz), 17.7-19.7 (18 GHz), 21.2-23.6 (23 GHz), and 27.5-29.5 (28 GHz) GHz microwave bands.[9/]

In addition to the OET study, the NPRM cites the fact that there are currently 24,000 applications on file with the Common Carrier Bureau for new MDS facilities as an additional justification for not considering the 2.5 GHz band as the spectrum reserve.[10/] This fact, however, is largely irrelevant

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[9/] The 12 GHz band is currently allocated to Direct Broadcast Satellite (DBS). However, in the nearly ten years since its allocation DBS has yet to offer service. Moreover, since wireless cable would in large part serve the same needs and audience as DBS, a co-primary allocation to these two services as a video distribution band would let the marketplace decide which service is more viable. The average consumer does not care whether video is delivered via satellite or microwave. Similar satellite/terrestrial distribution modes have been suggested for Digital Audio Broadcasting.

[10/] The NPRM is not specific as to whether the 24,000 pending applications are for MDS licenses in the 2.15-2.16 GHz band or MMDS facilities in the 2.50-2.69 GHz band. UTC assumes the latter. See NPRM, para. 18 - n.14.

because facility applications are not a reflection of the level of actual operations or investment in a band.

The Commission also argues against the use of the 2.5 GHz band as the spectrum reserve because wireless cable is a developing industry.[11/] This argument implies that the public interest would be better served by disrupting a congested band used for a vital and proven service, such as 2 GHz point-to-point microwave, than to disrupt a speculative service that has not yet experienced substantial investment -- and all for the prospective allocation of spectrum for services that are yet to be identified or defined.

Under an objective analysis, the 2.5 GHz band satisfies all of the Commission's initial selection factors, and should be considered as a candidate for the spectrum reserve. Therefore, prior to adopting any final reallocation rules, the Commission should conduct a thorough cost/benefit analysis regarding the use of the 2.5 GHz band as the spectrum reserve. The cost/benefit analysis should consider the financial, operational and societal impact of locating the spectrum reserve in this band.

From a true cost/benefit analysis point-of-view the 2.5 GHz band would be a much better location for the spectrum reserve than the 2 GHz band. According to the OET study, there are over

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[11/] NPRM, at para. 18.

29,000 licensed private and common carrier facilities in the 2 GHz band. In contrast, based on the limited data available to UTC, there does not appear to be more than 3,500 licensed ITFS, MMDS and OFS systems in the 2.5 GHz band. Moreover, the Wireless Cable Association indicates that there are only 94 fully constructed and operational MMDS/MDS systems. Thus, at present, in comparison to the 2 GHz band, the 2.5 GHz band is very lightly loaded.

While the number of operating MDS/MMDS systems in the 2.5 GHz band does not indicate the number of existing ITFS stations in the band, it should be noted that the Commission has already contemplated moving ITFS systems licensed on channel groups E and F to other bands. In its Second Report and Order in Gen. Docket No. 90-54, FCC 91-302, the FCC adopted an involuntary migration plan under which ITFS licensees can be compelled to relocate to another band by MDS/MMDS operators. Thus, arguments that existing ITFS facilities cannot or should not be relocated have already been rejected by the Commission. In adopting the Second Report and Order in GEN Docket No. 90-54, the Commission specifically suggested the 7, 13, 18 and 23 GHz bands as possible replacement bands for displaced ITFS systems.[12/]

[12/] Second Report and Order, GEN. Docket 90-54, FCC 91-302, para. 32.

UTC recommends the use of the same involuntary negotiation plan for the relocation of existing wireless cable and ITFS operations as was adopted in the Second Report and Order in GEN. Docket No. 90-54. Under such a plan, the designation of the 2.5 GHz band as the spectrum reserve would not significantly alter the rights of existing ITFS licensees.

Moreover, many of the currently licensed wireless cable systems are located in rural areas where there is less overall spectrum congestion and therefore little potential for interference between existing facilities and new technology licensees. It should therefore be possible for the 2.5 GHz band to remain available for licensing of ITFS and MMDS on a co-primary basis in rural areas of the country.

Finally, if the 2.5 GHz band is selected as the spectrum reserve, existing wireless cable systems should be given co-primary status on an indefinite basis, and should be allowed to make reasonable expansions and modifications to their system on a primary basis.

In terms of the financial and operational impact, the 2.5 GHz band would also appear to be a much better location for the spectrum reserve. For example, it is estimated that a relocation of all existing users in the 2 GHz band to other bands would cost over 4 billion dollars. However, given the fact that there are

only about 1/8 as many facilities licensed in the 2.5 GHz band as in the 2 GHz band, total relocation costs should be just a fraction of the relocation costs for the 2 GHz band. Further rulemaking is needed to examine these cost figures, which, in any event, should have been part of the OET Study.

Further, while the average wireless cable system is relatively small in size, many of the private microwave systems operated in the 2 GHz band are extensive and could cost millions of dollars to relocate. Therefore, if, as the NPRM proposes, the FCC adopts a transition plan whereby the costs of relocation are borne by the new technology licensees, the costs would be far more expensive for new users to relocate systems from the 2 GHz band.

More important, however, than the financial cost of reallocating the 2 GHz band, is the operational and societal cost of such a reallocation. The 2 GHz band is extensively relied upon for the transmission of critical communications by state and local governments, electric, gas and water utilities, and the petroleum and railroad industries. The operational well-being of all of these entities is absolutely crucial to the day-to-day functioning of the nation. These systems require a high degree of reliability that often cannot be provided at higher frequency bands or alternate technologies. Further, it is a difficult and complicated procedure to change-out an existing microwave system

to another system at a higher band, particularly when the system in question is critical to day-to-day functions and emergency situations. It is often necessary to construct substantial portions of the replacement microwave system prior to making the actual changeover in order to allow the original system to continue to meet on-going operational requirements.

On the other hand, the operational cost of clearing the 2.5 GHz band is practically non-existent, since as discussed above the wireless cable operations for which this band is presently allocated are minimal, and while they play an important role in some rural communities, they cannot be said to be more important that the functions supported by the private microwave systems operating in the 2 GHz band. In fact, the FCC recently began a proceeding to attempt to limit the rampant speculation that is an on-going occurrence in wireless cable licensing.[13/] Surely any temporary disruption in the additional entertainment services that MDS/MMDS might provide would be easier to overcome than the loss of America's backbone fixed microwave systems in the 2 GHz band. As noted above, UTC advocates allowing existing wireless systems to stay in the 2.5 GHz band on a co-primary basis, and relocation of existing facilities should be under the provisions of the Commission's ITFS involuntary license modification procedures.

[13/] See Notice of Proposed Rulemaking in PR Docket No. 92-80, adopted April 9, 1992. The text of the proposal has not yet been released.

Furthermore, while there are numerous, existing and potential, video entertainment services that would more than adequately compensate for the loss of the possible development of MDS/MMDS in the 2.5 GHz band, there is no adequate wholesale replacement for the loss of the 2 GHz microwave band. As indicated above, additional wireless cable service needs could be met at higher bands such as the 4, 6, 7, 11, 11.7, 12, 13, 18, 23 or 28 GHz bands. In fact, the FCC recently granted authority to Hye Crest Management, Inc. to operate a wireless cable service in the 28 GHz band, and rulemaking has been requested to routinely authorize such systems in this band.[14/]

In looking at the benefit side of the analysis, the two bands would appear to offer essentially the same benefits as a potential home for the spectrum reserve. The bands are only separated by 300 MHz and have similar propagation characteristics. If anything, the 2.5 GHz band would appear to be a more attractive location for a spectrum reserve, since only a relatively small number of existing facilities would actually have to be relocated. Therefore, the amount of time actually needed to implement new technologies would be relatively brief. Further, since many of the existing wireless cable systems are located in rural areas, and much of the emerging technologies are

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[14/] See Hye Crest Management, Inc., 6 FCC Rcd 332 (1991). Also, RM-7872, filed september 23, 1991, by Suite 12 Group proposes the 28 GHz band be used to provide a multichannel local distribution service.

slated to first serve urban areas, new technologies could be introduced immediately into many of the major metropolitan areas. In contrast, the 2 GHz microwave band is congested throughout large parts of the country including many urban areas, and it would take a number of years to relocate all of the private microwave systems in the 2 GHz band. Finally, the 2.50-2.69 GHz band would afford up to 190 MHz of contiguous spectrum, whereas the 220 MHz suggested for reallocation from the 2 GHz band would yield, at most, 140 MHz of contiguous spectrum.

2. 1.99 - 2.11 GHz Band

The NPRM and the OET Study also gave short shrift to consideration of the 120 MHz located in the 1.99-2.11 GHz (broadcast auxiliary) band as a possible home for the spectrum reserve. The primary use of this band is for electronic news gathering (ENG) by broadcasters and cable operators. In determining not to consider the broadcast auxiliary band as the home for the spectrum reserve, the OET study reported that "interviews" with licensees in the band indicated that this band is necessary to meet all of their operational requirements during major news events and other periods of heavy demand.[15/]

UTC, while not questioning the veracity of the broadcasters' comments, is at a loss to understand why the concerns of

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[15/] OET Study, p. 10.

broadcasters were given more weight then those of the utility, public safety, petroleum and railroad industries. Further, while existing 2 GHz users have been told to consider the use of alternative technologies such as fiber optics to meet their internal fixed communications needs, neither the OET Study nor the NPRM mention the fact that many broadcasters are increasingly using satellite systems to meet ENG requirements. UTC further understands that FCC licensing records are not a true depiction of actual use of this band since licensees will routinely apply for licensing on multiple frequencies, even though they only intend to operate on a single channel at a time. Thus, closer examination of the actual extent of usage of this band should have been undertaken in the OET Study, and should be made the subject of a further notice of proposed rulemaking in this docket.

In light of the foregoing analysis, UTC urges the Commission to issue a further notice of proposed rulemaking in ET Docket No. 92-9, to invite interested parties to comment on the relative merits and cost/benefits of designating the 2.50-2.69 GHz band and/or the 1.99-2.11 GHz band as alternative choices for the spectrum reserve. In order to avoid any further relocation expenses, UTC also requests that the Commission place a temporary freeze on the processing of all further applications in the 2.50-

2.69 and 1.99-2.11 GHz bands pending the outcome of ET Docket No. 92-9.[16/]

B. Technical Standards for Replacement Bands

As UTC pointed out in its March 31, 1992, "Petition for Rule Making," there are a number of steps which the FCC should have taken before (or when) it issued the NPRM in ET Docket No. 92-9, to make sure that there would, in fact, be appropriate and adequate replacement spectrum with equivalent reliability to the 2 GHz band in place, for use by displaced users.[17/] Accordingly, the March 31, 1992, UTC petition requested commencement of a rulemaking proceeding to specifically address technical and coordination rules which would have to be amended to make additional spectrum available for: (1) existing 2 GHz systems that would be displaced by new, emerging technologies, (2) new or modified systems that would have been licensed in the 2 GHz band but for the FCC's new, secondary-only, licensing policies for the 2 GHz band, and (3) new systems that might not be accommodated in other private microwave bands due to the migration of currently-licensed 2 GHz private and common carrier microwave systems.

[16/] UTC notes that on April 9, 1992, the Commission adopted a freeze on the acceptance of applications for new MDS/MMDS stations in PR Docket No. 92-80.

[17/] See UTC Petition for Rulemaking.

In an April 20, 1992, letter to Senator Ernest Hollings, Chairman of the Senate Commerce, Science and Transportation Committee, all five of the FCC Commissioners pledged to work aggressively to improve access to alternative spectrum for incumbent 2 GHz microwave users. Specifically, the Commissioners voiced their support for the development of technical and operational rules to facilitate the use of the 4 and 6 GHz bands by displaced 2 GHz microwave users, and to work with NTIA to gain access to the 1.71-1.85 GHz Federal government band for use as replacement microwave spectrum. In light of the Commission's apparent support for the proposals contained in UTC's March 31, petition, and for the sake of administrative efficiency and economy, UTC suggests that the proposals contained in the March 31, 1992, UTC "Petition for Rule Making" could be incorporated into the further notice of proposed rulemaking requested by the present petition.

Moreover, if the Commission acts upon UTC's request to consider the 2.50-2.69 GHz band as an alternative location for the spectrum reserve, the FCC might have to revise its eligibility rules and technical standards for a number of bands above 3 GHz in order to accommodate displaced wireless cable systems and ITFS systems. The Commission should therefore raise this issue in any further notice of proposed rulemaking that it issues in the spectrum reserve proceeding.